**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**
**AND**
**HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY**

**WRIT APPEAL Nos.995, 1001, 1002, 1003, 1004, 1005, 1007, 1008, 1009 and 1010 of 2006**

**Writ Appeal No.995 of 2006**

Between:

Mother Teresa Educational Society,
represented by its Secretary & Correspondent,
P.Somasekhar and another. ...Appellants

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education (E.C.) Department,
Secretariat, Hyderabad and others. …Respondents

**Writ Appeal No.1001 of 2006**

Between:

Jyothi Engineering College,
represented by its Chairman,
D.Samuel. ...Appellant

AND

State of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education Department,
Secretariat, Hyderabad and others. …Respondents

**Writ Appeal No.1002 of 2006**

Between:

St.Stanley College of Engineering & Technology,
represented by its Chairman,
T.Rammohan Reddy. ...Appellant
AND

State of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education Department,
Secretariat, Hyderabad and others. …Respondents

**Writ Appeal No.1003 of 2006**

Between:

St. Mary's College of Engineering and Technology,
represented by its Secretary & Correspondent,
K.V.K.Rao. ...Appellant

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education (E.C.) Department,
Secretariat, Hyderabad and another. …Respondents

**Writ Appeal No.1004 of 2006**

Between:

St. Mary's College of Engineering and Technology,
represented by its Secretary & Correspondent,
K.V.K.Rao. ...Appellant

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education (E.C.) Department,
Secretariat, Hyderabad and another. …Respondents

**Writ Appeal No.1005 of 2006**

Between:

M/s. SRK Memorial Educational Society,
represented by its Secretary,
Smt.Sharada & another. ...Appellants

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher and Technical Education Department,
Secretariat, Hyderabad and others. …Respondents

**Writ Appeal No.1007 of 2006**

Between:

Creative Educational Society,
represented by its Secretary,
Y.Sivarami Reddy & others. ...Appellants

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher and Technical Education Department,
Secretariat, Hyderabad and others. …Respondents

**Writ Appeal No.1008 of 2006**

Between:

New Loyola Model Educational Society,
represented by its Secretary,
R.Venkat Rao & others. ...Appellants

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher and Technical Education Department,

Secretariat, Hyderabad and others. …Respondents

**Writ Appeal No.1009 of 2006**

Between:

Holy Mary Institute of Technology and Science,
represented by its Secretary & Correspondent,
A.V.S.Reddy. ...Appellant

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education (E.C.) Department,
Secretariat, Hyderabad and another. …Respondents

**Writ Appeal No.1010 of 2006**

Between:

Holy Mary Institute of Technology and Science,
represented by its Secretary & Correspondent,
A.V.S.Reddy. ...Appellant

AND

Government of Andhra Pradesh,
rep. by its Principal Secretary,
Higher Education (E.C.) Department,
Secretariat, Hyderabad and another. …Respondents

: **J U D G M E N T** :

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1009 and 1010 of 2006 : Sri S.Sriram

Counsel for the Appellants

in W.A.Nos.1001 and 1002 of 2006 : Ms.V.Uma Devi

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in W.A.Nos.1007 and 1008 of 2006 : Sri S.Niranjan Reddy

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W.A.Nos.995, 1001, 1002, 1003, 1004, assisted by Government
1005, 1007, 1008, 1009 and 1010 of 2006 Pleader for Higher
and respondent No.3 in W.A.No.1001 of Education.
2006 and respondent No.2 in W.A.No.1007
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Counsel for respondent Nos.2 and 3 in : Sri Sudesh Anand
W.A. No.995 of 2006 and respondent Nos.2
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in W.A.Nos.1007 and 1008 of 2006.

**17th OCTOBER, 2006.**

**Per G.S.Singhvi, C.J.**

Having failed to persuade the learned Single Judge to entertain their prayer for issue of a mandatory interim direction to the Andhra Pradesh State Council of Higher Education (for short, 'the State Council'), Convener, EAMCET-2006 and Convener, EAMCET-AC-2006 to allow them to make admissions in Engineering, Pharmacy and Computer Science courses against 'A' category seats under the Andhra Pradesh Un-Aided, Non-Minority Professional Institutions (Regulation of Admissions Into Under-Graduate Professional Courses through Common Entrance Test) Rules, 2006 (for short, 'the Rules') and other similar rules, the appellants have preferred these appeals under Clause 15 of the Letters Patent.

For the sake of convenience, we have taken the facts from the record of Writ Appeal No.995 of 2006.

Appellant No.1 – Mother Teresa Educational Society is a body registered under the Societies Registration Act. On an application filed by appellant No.1, All India Council for Technical Education (for short, 'AICTE') granted approval to it to establish Degree Pharmacy institution in the name and style of Mother Teresa College of Pharmacy (hereinafter described as appellant No.2) subject to various conditions specified in the letter of approval dated 1-9-2006 sent by Adviser-M&T, AICTE to the Secretary, Technical Education Department, Government of Andhra Pradesh. Condition No.2(c), which has bearing on the decision of this appeal, reads as under:

> "**2(c)** That the admissions to the courses shall be made only after the affiliating University/State Board has given permission to start the course."

After receiving copy of the letter of approval, the appellants filed Writ Petition No.19237 of 2006 for issue of a direction to the respondents to allot students in the approved programme in

B.Pharmacy. By an interim order dated 15-9-2006 passed in WPMP.No.24233 of 2006, the learned Single Judge directed the State Government to pass appropriate order on the appellants' prayer for allotment of the students. In compliance of that direction, Principal Secretary to Government of Andhra Pradesh, Higher Education Department passed order dated 22-9-2006, paragraph 3 of which reads as under:

> "3. The Government has carefully examined the matter. It is reported that the counselling for A-category seats (80% of total seats) through single window, as per the procedure prescribed in rule 6 of Regulation of Admissions into Under-Graduate Professional Courses Through Common Entrance Test Rules, 2006 has been closed for the academic year 2006-2007 and hence there is no scope for giving further admissions again in A-category seats. Hence the Government, while hereby accord permission for establishment of new Pharmacy College in the name of Mother Teresa College of Pharmacy, NFC Nagar, Ghatkesar Mandal, R.R. District with a permission to fill up the category "B" seats only (20% of total enhanced seats i.e., 12 seats) as per the procedure prescribed in Rule 6(ii) of the EAMCET Admission Rules for the academic year 2006-2007, subject to the following conditions:
>
> i) The admission to B-Category seats shall be made on or before the last date for admission for 2006-2007 for the relevant course prescribed by the concerned affiliating University in accordance with its academic regulations.
>
> ii) The educational institution must obtain University affiliation and satisfy all other conditions prescribed by the AICTE in its letter of sanction."

Feeling aggrieved by the indirect rejection of their prayer for allotment of students against 'A' category seats/grant of permission to make admissions against those seats in academic year 2006-07, the appellants filed Writ Petition No.20033 of 2006 and prayed for

quashing G.O.Ms.No.164 dated 22-9-2006 and also for issue of a direction to the respondents to include appellant No.2 in the counselling being conducted by Convener, EAMCET-2006 (respondent No.3). They further prayed for issue of a direction to the respondents to allow the second appellant to fill up the seats through spot admissions. In WPMP No.25303 of 2006, the appellants prayed for issue of a direction to respondent Nos.1 and 2 to permit appellant No.2 to admit students against 'A' category seats through spot admissions.

The other appellants filed Writ Petition Nos.20029, 20030, 20034, 20045, 20055, 20069, 20073, 20076, 20077, 20078, 20179, 20216, 20207, 20221, 20222, 20223 and 20225 of 2006 and prayed for quashing of orders passed by Principal Secretary to Government of Andhra Pradesh, Higher Education Department, indirectly rejecting their prayer for allotment of students against 'A' category seats. They further prayed for issue of directions to the respondents to allow them to make spot admissions in Engineering, Pharmacy and Computer Science courses against the additional seats sanctioned by AICTE and seats sanctioned for the new courses. They also filed WPMP.Nos.25298, 25209, 25304, 25308, 25317, 25330, 25344, 25348, 25351, 25352, 25353, 25503, 25550, 25540, 25556, 25557, 25558 and 25562 of 2006 for issue of interim directions to the State Council, Convener, EAMCET-2006 and Convener, EAMCET-AC, 2006 to allot students on the basis of the on-going counselling for admission against 'A' category seats or for grant of permission to make spot admissions against the additional/newly sanctioned seats.

The learned Single Judge, after briefly noticing the factual matrix of the case set up by the appellants and considering the arguments of the learned counsel for the parties, held that the approval

granted by AICTE does not ipso facto entitle the petitioners (appellants herein) to seek allotment of candidates either through Convener, EAMCET or to make spot admissions on their own. The learned Single Judge then observed that the unfilled seats in 'A' category have already been transferred to the respective college managements to be filled up by the process of spot admission and held that there was no valid reason to pass an order, which would disturb the whole process of admissions. The learned Single Judge also rejected the appellants' plea that the seats sanctioned by AICTE should be treated as left-over seats by recording the following observations:

> "Though the petitioners are seeking permission to fill up 'A' category seats through institutional spot admissions, if students are not allotted by the Convener, but, as the said seats were not notified earlier and were not put up for allotment to candidates during counselling, as they were not approved by that time, they cannot be treated as left over seats for the purpose of permitting the institutions to fill up the same through institutional spot admissions, and, it would amount to permitting the colleges to fill up the total intake capacity by themselves, which is contrary to the rules in that regard."

Before proceeding further, we consider it necessary to mention that till the stage of disposal of WPMPs. filed by the appellants, the respondents did not get opportunity to file counter-affidavits. However, after passing of interim order by the Division Bench on 29-9-2006, Sri M.D.Christopher, Secretary of the State Council filed affidavit dated 7-10-2006. In paragraphs 4 to 8 and 10 of his affidavit, the deponent has detailed the admission procedure and given an overview of the different stages of admissions made on the basis of EAMCET 2006. For the sake of reference, these paragraphs are reproduced below:

> "4. It is respectfully submitted that EAMCET-2006 admissions for Engineering and Pharmacy (MPC) stream was

notified as per notification dated 2-7-2006 being the 1st phase of counselling which commenced from 12-7-2006 and concluded on 19-8-2006. Thereafter, the 1st respondent issued G.O. reducing the qualifying mark in EAMCET from 20% to 25% in order to provide admission to the additionally qualified candidates since large number of vacancies arose at the end of 1st phase of counselling. Accordingly, 2nd phase of counselling was planned by this respondent and the same was held for Engineering and Pharmacy (MPC) stream from 23-8-2006 to 16-9-2006 for all the candidates from Rank No.1 to last rank. During this process, a number of candidates who had taken admission in the 1st phase of counselling were given sliding as per their choice in disciplines of Engineering and Pharmacy colleges, for which the students are entitled to as per rules in the above G.Os. The number of vacancies in each Engineering College has been intimated to the respective colleges with instructions to conduct institutional spot admissions fixing the cut-off date for spot admission on 7-10-2006 and for submission of list of admitted candidates before 14-10-2006. All the students who have taken admission under Convener quota were directed to report at the colleges by 26-9-2006. That apart, the class work of Engineering Colleges commenced on 28-8-2006 for the year 2006-2007 and in respect of MBA the class work commenced on 4-9-2006 itself.

5. While things stood thus, the AICTE, the 3rd respondent herein granted approval for additional intake of Engineering seats in various disciplines with respect to the appellant college even as late as on 7-9-2006 and other colleges between last week of August and in the 3rd week of September, 2006 with a condition that the said approvals of additional courses, increase in intake and variation in intake is valid for two years and the date of issue of such approval for getting affiliation with respective University and fulfilling the State Government requirements of admission. One of the appellants herein filed W.P.No.19123 of 2006 before the learned Single Judge of Hon'ble High Court of A.P. on 14-9-2006 seeking a direction to include the enhanced 60

seats approved by AICTE to be filled up by the Convener, EAMCET-AC-2006 admissions. The learned Single Judge directed the 1st respondent herein to consider the additional seats approval given by AICTE and to pass appropriate orders forthwith on 14-9-2006. Accordingly, the 1st respondent issued G.O.Ms.No.833, dated 23-9-2006, permitting the managements of certain professional colleges to fill up 20% of management seats of the additionally approved intakes in the said G.O. subject to the following conditions:

1. The admissions to Category – B seats shall be made on or before the last date for admission for 2006-2007 for the relevant course prescribed by the concerned affiliating University in accordance with its academic regulations.

2. The Educational Institutions must obtain University affiliation and satisfy all other conditions prescribed by the AICTE in its letter of sanction.

6. It is relevant to submit that 1st respondent herein vide letter dated 22-5-2006 had specifically requested AICTE, New Delhi not to grant additional intake, additional courses and permission for new colleges beyond 30-6-2006 and before commencement of class work. Admittedly, in al these cases, the approval is given by AICTE even after the cut-off date fixed by the admission committee i.e., 26-8-2006 for Engineering and 6-9-2006 for MBA and MCA courses. That apart, even during counselling was in progress, the Director of Technical Education intimated to the AICTE on 4-8-2006, 18-8-2006 and on 21-8-2006 requesting to grant any permission for new college or variations for next academic year i.e., 2007-2008 for the reason that cut-off date has been fixed by the admission committee and if any additional intake is given it would lead to legal consequences.

7. With respect to averments contained in paras 2 to 5 of the affidavit, it is respectfully submitted that the said GO did not permit for making admissions in the remaining 80% of seats to be filled by the Convener, EAMCET-2006 (Admissions) under SW-1 for the following reasons:

a) The Convener, CET-2006 has closed admissions by following the decision of CET -2006 Admission Committees

on 16th September 2006 for Engineering and Pharmacy (MPC) stream and for MBA and MCA by 11th September, 2006.

b) The vacancy position of the Category – A (80% seats) in the colleges has been communicated to the respective college managements for proceeding ahead with next step in the process of admissions i.e., conducting institutional spot admissions for the said unfilled seats.

c) The students who were already allotted to the Engineering Colleges and B.Pharmacy (MPC) stream were asked to report by 26th September 2006 and for MBA and MCA by 29th September, 2006.

d) If the counselling is to be conducted for the additional intake/ new intake of the colleges, it is not possible for the reason that the vacant seats in 'A' category which are already transferred to the respective college managements cannot be retransferred to be included for the counselling.

e) The whole admission process is to be repeated calling the students from Rank No.1 till the last rank of CET's in order to avoid litigation and to follow the same procedure is not possible now since the counselling is closed.

f) It also involved enormous expenditure for conducting fresh phase of counselling which would take about 10 days between the date of issue of notification and date of commencement of counselling and another 40 days for counselling session for the sake of few seats that are falling under the 80% of the additional intake/new intake sanctioned to the colleges. Approximately, it has already cost Rs.50.00 lakhs for such a period of counselling.

g) AICTE, New Delhi is according approvals for additional and new intake throughout the year which is subject to getting affiliation with respective Universities and fulfilling State Government requirement of admission and academic schedules. As such, it is likely that AICTE may accord further additional/new intake within this month in continuation of the approvals that are under consideration now. Therefore, the additional/new intake given by AICTE at the end of counselling cannot be included since it disturbs the whole

process of the counselling.

h) The respective universities have laid academic regulations regarding the last date for admitting candidates during the academic year. It is 4-weeks for semester programmes and 8-weeks for year-wise programmges. If admissions are given by conducting fresh counselling now, when the class work has started for Engineering on 28th August 2006 and for MBA and MCA on 4th September, 2006, it would be in violation of those University regulations. The said regulations are annexed.

8. It is further respectfully submitted that this respondent who is the competent authority under Rule 6 (14) in G.O.Ms.Nos.53, 54 and as per Rule 6(15) of G.O.Ms.No.59 has to fix the cut off dates in each stage of admissions in consultation with the admission committee. Accordingly, cut off dates have been fixed by this respondent as mentioned below:

Cut off Dates for Admissions of Engineering/MBA/MCA courses for the year 2006-2007

| Sl.No. | Particulars | MCA/MBA Course | Engineering |
|---|---|---|---|
| 1. | Closing of Admissions for Convener seats conducted by the Convener (80% Category – A seats) | 11-9-2006 | 16-9-2006 |
| 2. | Cut off date for institutional spot admissions to be made by the managements (for vacant seats under Convener quota) (80% Category – A seats) | 30-9-2006 | 7-10-2006 |
| 3. | Submission of lists of Spot Admissions (80% Category – A seats) | 7-10-2006 | 14-10-2006 |
| 4. | Submission of lists for management quota of seats (20% Category – B seats) | 31-102006 | 31-10-2006 |

10. It is further respectfully submitted that the appellants in W.A. Nos.1001, 1003, 1004, 1009 and 1010 of 2006 have

opted for single window-2 (SW-2) for admissions to their colleges under G.O.ms.No.54 and G.O.Ms.No.59 with due permission from the Judges Committee. It is relevant to submit here that the said colleges under SW-2 window could fill up hardly 5% seats by the Convener, EAMCET-AC and ICET-AC. The details are as hereunder:

| Sl.No. | W.A.No. | Appellant College | Course | Cate-gory-A seats | Filled | Vacant |
|---|---|---|---|---|---|---|
| 1. | 1001/2006 | Jyothi Engg. College | Engg | 192 | 02 | 190 |
| 2. | 1004/2006 | St.Mary College of Engg. & Tech. | Engg | 336 | 08 | 328 |
| 3. | 1010/2006 | Holy Mary Inst.of Tech and Science | Engg | 288 | 04 | 284 |
| 4. | 1009/2006 | Holy Mary Inst.of Tech and Science | MCA | 48 | 00 | 48 |
| 5. | 1003/2006 | St.Mary College of Engg & Tech | MCA | 48 | 00 | 48 |

Similar is the theme of common reply filed on behalf of respondent Nos.1 and 2 in Writ Appeal No.1005 of 2006 in the form of the affidavit of Shri S.V.U.M. Prasad, Joint Director in the office of Director of Technical Education, Andhra Pradesh.

Learned counsel for the appellants argued that by virtue of the approval granted by AICTE, their clients have acquired a vested right to make admissions against the additional seats / newly sanctioned seats and the State Government committed a serious illegality by

refusing to allot ‘A’ category seats to them. Learned counsel further argued that the decision of the Government to allow the appellants to fill up ‘B’ category seats only is liable to be declared as arbitrary, irrational and violative of Article 14 of the Constitution because the same has the effect of depriving them of the right to make admissions against ‘A’ category seats. Learned counsel submitted that permission granted to the appellants to make admissions against ‘B’ category seats is futile because the institutions will not be able to run the courses for a very small number of candidates. Learned counsel then argued that when AICTE has felt convinced about the availability of infrastructure and faculty, there can be no valid ground or justification to deny allotment of students against ‘A’ category seats and thereby frustrate the rights of the appellants to run the courses for academic year 2006-07. Sri S.Niranjan Reddy and Sri C.Kodandaram, learned counsel appearing for some of the appellants made an additional submission that the conditions embodied in the approval granted by AICTE that admissions can be made only after obtaining permission from the affiliating University has always been treated as directory and no public authority has taken serious note of the absence of such permission and, therefore, the Court should not insist on compliance of that condition. Learned counsel also assailed the order of the learned Single Judge by arguing that the reason assigned by him for refusing to direct Convener, EAMCET, 2006 and Convener, EAMCET-AC, 2006 to allot students against ‘A’ category seats or permit them to make suo motu admissions are legally untenable.

Sri C.V.Mohan Reddy, learned Advocate General took us through the counter affidavits filed on behalf of the respondents and the rules framed by the State Government in exercise of its power under Sections 3 and 15 of the Andhra Pradesh Educational

Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 (for short, 'the 1983 Act'), which were notified vide G.O.Ms.Nos.53 and 54, Higher Education (EC) Department, dated 10-5-2006 and G.O.Ms.No.59, Higher Education (EC1) Department, dated 26-5-2006, and argued that the approval granted by AICTE in September, 2006 cannot be construed as entitling the appellants to seek allotment of seats against 'A' category seats or suo motu make admissions against those seats and the learned Single Judge did not commit any illegality by refusing to entertain their prayer for interim relief. Learned Advocate General pointed out that as on the date of grant of approval by AICTE for increase in the number of seats or for starting new course, the process for filling up 'A' category seats had already been completed except in one stream of B.Pharmacy and, therefore, the appellants could not be allotted students against 'A' category seats. He then argued that additional seats, which became available to the appellants by virtue of approval granted by AICTE, cannot be treated as left over seats for the purpose of making admissions for academic year 2006-07. Learned Advocate General emphasized that an interim order by the Court for allotment of students against 'A' category seats to the appellant institutions or permission to them to make suo motu admissions against such seats would not only destroy the sanctity of the cut-off date fixed for making admissions i.e., 30th September, 2006, but also jeopardize the entire process of admissions. He submitted that even those students who have already been admitted in the institutions and colleges situated in rural areas may come forward and lay claim for admission in the colleges and institutions situated in urban areas and the ban contained in Rule 6 (8) of the rules notified by G.O.Ms.No.53, dated 10-5-2006 and similar provisions contained in other sets of rules cannot be invoked

against such students because the additional/new seats sanctioned by AICTE were not available at the time of commencement of the process of admissions.

We have given serious thought to the entire matter. It is settled law that in exercise of its power under Clause 15 of the Letters Patent, Division Bench will ordinarily decline interference with the discretion exercised by the learned Single Judge to grant or to refuse interim relief to the petitioner. Interference with the interim or interlocutory orders passed by the Single Bench is warranted only if the Division Bench is convinced that the order under challenge has been passed ignoring the basic provisions of law or grave injury is likely to be caused to the appellant by grant or refusal of injunction/stay or substantial failure of justice is likely to be occasioned. Mere chance or possibility of the Division Bench forming a different opinion on the subject matter of the main case can seldom be a ground for upsetting the discretion exercised by the learned Single Judge.

We shall now consider whether the learned Single Judge committed any patent error by refusing to entertain the appellants' prayer for issue of a mandatory direction to Convener, EAMCET-2006 and Convener, EAMCET-AC, 2006 to allot the students against 'A' category seats, which will be deemed to have become available sometime in September, 2006 as a sequel to the approval granted by AICTE.

The parameters for exercise of the Court's power to grant interim relief in the proceedings filed under Article 226 of the Constitution of India are well defined. In such matters, the Court is required to consider the following factors:

1) Existence of a strong prima facie case;

2) Balance of convenience;

3) Irreparable injury, if any, suffered by the parties on account of grant or refusal of injunction; and

4) Whether it would be in the public interest to pass an order of injunction.

All the above noted factors must be established by the petitioner/applicant before an order of injunction can be passed by the Court. In a given case, the Court may feel satisfied about the existence of prima facie case, but still decline interim relief if the petitioner is not likely to suffer irreparable injury or the balance of convenience is not in his favour or that grant of injunction would not be in public interest. Even if the first three factors are in favour of the petitioner, the Court may decline temporary injunction if it is found that the Court's order will not be in public interest. To put it differently, mere existence of strong prima facie case and/or balance of convenience are not the only factors the existence of which would justify grant of an interim injunction. The Court must feel convinced about the existence of all the elements indicated above as a condition precedent to the grant of interim relief.

Adverting to the cases in hand, we find that the first phase of counselling for the purpose of making admissions on the basis of EAMCET-2006 commenced from 12-7-2006 and concluded on 19-8-2006. On account of reduction of the qualifying marks, second phase of counselling was held from 23-8-2006 to 16-9-2006. During the process of admissions, AICTE accorded approval to the appellants for an additional intake or for starting new courses. In a batch of petitions filed by the appellants, the learned Single Judge passed interim order directing the Government to decide their representations. Accordingly, the State Government considered the matter and granted permission to the appellants to make admissions against 'B' category seats. If the

appellants' claim for allotment of students for admission against 'A' category seats or their prayer for grant of permission to make suo motu admissions against those seats in that category is considered in the light of the fact that the process of admissions had already come to an end, it is impossible to accept the submission of their counsel that admissions, if any, made in the month of October, 2006 would not jeopardize the entire scheme of admissions. In our opinion, a direction by the Court to the official respondents to allot candidates to the appellants against 'A' category seats or permission to them to make spot admissions will have far reaching adverse impact on the process of admission. This exercise would have chain reaction and introduce an element of total uncertainty.

We agree with the learned Advocate General that if admissions are allowed to be made against 'A' category seats ignoring the fact that the process of admission in the said stream had been closed, the students who have already been admitted in some institutions as per their merit may come forward and lay claim for admission in the appellant colleges and institutions. Prima facie, the bar contained in Rule 6 (8) of the Rules may not operate against consideration of their candidature.

The argument of the learned counsel that the additional seats sanctioned by AICTE in September, 2006 should be treated as left over seats and their clients should be allowed to make admissions against those seats is clearly misconceived and is liable to be rejected. Undisputedly, the additional seats or new sanctioned seats were non-existent at the time of commencement of the process of admission. Therefore, they cannot be treated as unfilled seats to be offered to the candidates who could not get admissions in the first and second phase of counselling.

The innovative argument of Shri S. Niranjan Reddy and Shri C. Kodanda Ram that one of the conditions embodied in the approval accorded by AICTE, in terms of which the appellants or at least some of them are required to take permission from the affiliating University for making admissions against the additional/new seats should be treated as directory cannot be accepted for the simple reason that the said condition is couched in mandatory language and consequence of violation of the said condition could be cancellation of the approval.

The upshot of the above discussion is that the appellants have failed to make out a case for issue of a mandatory interim direction injuncting the State Council, Convener, EAMCET-2006 and Convener, EAMCET-AC, 2006 to allot students to them for admission against 'A' category seats or permit them to make suo motu admissions against those seats. The elements of balance of convenience, irreparable injury and public interest are also against the grant of such interim relief.

In the result, the appeals are dismissed. However, the parties are left to bear their own costs.

As a sequel to dismissal of the appeals, W.A.M.P.Nos.2123, 2130, 2131, 2132, 2133, 2134, 2136, 2137, 2138 and 2139 filed by the appellants for interim relief are also dismissed and interim order dated 29-9-2006 is vacated.

Before parting with the case, we consider it proper to observe that the opinion expressed on the merits of the plea taken by the appellants shall not prejudice final adjudication of the writ petitions pending before the learned Single Judge.

**G.S.SINGHVI, C.J.**

17th October, 2006.

**C.V.NAGARJUNA REDDY, J.**

ARS